

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH DIVISION**

**IN RE:**

**CHAPTER 11**

**BLACK SHEEP FOOD GROUP, LLC**

**CASE NO. 17-04372-5-JNC**

**Debtor.**

**MOTION FOR SANCTIONS FOR CONTEMPT OF COURT AGAINST FUNDBOX,  
INC.**

NOW COMES Black Sheep Food Group, LLC, Debtor in the above-referenced case (hereinafter “Debtor”), by and through undersigned counsel, and pursuant to Federal Rule of Bankruptcy 2004, respectfully moves the Court to enter an Order finding Fundbox, Inc. (hereinafter, “Fundbox”), in contempt of court and imposing monetary sanctions. In support of this Motion, Debtor shows unto the Court the following:

1. Debtor filed a voluntary petition pursuant to Chapter 11 of the Bankruptcy Code on September 6, 2017.
2. Debtor did not list Fundbox as a creditor in its petition having a claim against Debtor’s estate.
3. Debtor believes that it has a claim against Fundbox arising out of a loan agreement between Debtor and Fundbox, under which Fundbox made a short-term loan to Debtor in return for payments made on the loan by Debtor at a high interest rate.
4. Debtor believes that it paid Fundbox nine payments totaling \$12,756.82 in the ninety (90) days prior to filing for bankruptcy relief.
5. On motion of the Debtor, this Court entered an order on May 10, 2018, directing Fundbox to produce the following documents to counsel for the Debtor by June 1, 2018:

- A. Any loan agreements, including promissory notes and security agreements, made between Debtor and Fundbox, its subsidiaries, affiliates, parent companies, or any related entities.
  - B. An accounting of payments made on Debtor's account to Fundbox, its agents, subsidiaries, affiliates, for a period of one year prior to filing the petition for bankruptcy on September 6, 2017.
  - C. Any and all correspondence between Fundbox, its agents, subsidiaries, affiliates, and Debtor for a period of one year prior to filing the petition for bankruptcy on September 6, 2017.
  - D. Any and all documents in the possession of Fundbox, its agents, subsidiaries, affiliates, referring to the Debtor.
- 6. Fundbox failed to produce any documents or otherwise respond by June 1, 2018.
  - 7. On June 12, 2018, the undersigned counsel for the Debtor sent a demand letter (attached hereto as Exhibit A) with a copy of this Court's May 10, 2018, order for the production of documents to Fundbox by email and mail. In the letter, Debtor's counsel demanded production of the documents by June 18, 2018.
  - 8. Fundbox failed to produce any documents or otherwise respond by June 18, 2018.
  - 9. Fundbox is in willful violation of this Court's May 10, 2018, order directing Fundbox to produce documents to the Debtor pursuant to Rule 2004.
  - 10. As a result of Fundbox's willful violation of this Court's May 10, 2018, order, the Debtor has incurred additional legal fees drafting the demand letter, researching corporate records for current contact information for Fundbox, and drafting this motion.

11. In addition, without the information which Fundbox was ordered to produce, the Debtor has been unable to determine the priority of security interests in Debtor's assets, and has had to delay resolution of at least two claims and filing adversary proceedings to recover fraudulent transfers.

WHEREFORE, Debtor respectfully requests that the Court enter an Order:

1. Finding Fundbox in contempt of court for willfully violating this Court's May 10, 2018, order for the production of documents;
2. Imposing appropriate sanctions against Fundbox, including payment of Debtor's attorneys' fees incurred in connection with this matter; and,
3. For such other relief as this Court deems just and proper.

Respectfully submitted, this the 18th day of July, 2018.

JANVIER LAW FIRM

s/ Kathleen O'Malley  
Kathleen O'Malley  
N.C. State Bar No. 51654  
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June 12, 2018

VIA EMAIL and FIRST-CLASS MAIL

Fundbox, Inc.  
300 Montgomery Street  
San Francisco, CA 94104  
EMAIL: legal@fundbox.com

Re: Black Sheep Food Group, LLC  
Eastern District of NC Case No. 17-04372-5-JNC

Dear Sir/Madam:

**This letter is to inform you that you are in violation of the enclosed Court order requiring Fundbox, Inc. to produce documents to this office by June 1, 2018.** This firm represents Black Sheep Food Group, LLC, Debtor in Eastern District of NC bankruptcy case no. 17-04372-5-JNC. On May 10, 2018, the Honorable Joseph N. Callaway, United States Bankruptcy Judge, issued the enclosed order requiring Fundbox, Inc. to produce documents regarding the Debtor Black Sheep Food Group, LLC. Despite the Court order, Fundbox has not produced any documents to this office.

Please be aware that if this office does not receive the information ordered to be produced by Fundbox, Inc. by **Monday, June 18, 2018**, Black Sheep Food Group will seek to hold Fundbox, Inc. in contempt of court for violation of the May 11 Court order. If you have any questions, please do not hesitate to call or email.

Sincerely,




Kathleen O'Malley

SO ORDERED.

SIGNED this 10 day of May, 2018.



  
Joseph N. Callaway  
United States Bankruptcy Judge

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FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH DIVISION**

**IN RE:**

**CHAPTER 11**

**BLACK SHEEP FOOD GROUP, LLC**

**CASE NO. 17-04372-5-JNC**

**Debtor**

**ORDER ON MOTION FOR PRODUCTION OF DOCUMENTS UNDER RULE 2004**

THIS MATTER having come before the Court upon Debtors' Motion for Production of Documents Under Rule 2004, and for good cause shown,

IT IS ORDERED that Fundbox, Inc. (hereinafter "Fundbox") shall produce the following documents to Debtor at the offices of the Janvier Law Firm, 311 E. Edenton Street, Raleigh, North Carolina 27601 on or before June 1, 2018:

- A. Any loan agreements, including promissory notes and security agreements, made between Debtor and Fundbox, its subsidiaries, affiliates, parent companies, or any related entities.
- B. An accounting of payments made on Debtor's account to Fundbox, its agents, subsidiaries, affiliates, for a period of one year prior to filing the petition for bankruptcy on September 6, 2017.

C. Any and all correspondence between Fundbox, its agents, subsidiaries, affiliates, and Debtor for a period of one year prior to filing the petition for bankruptcy on September 6, 2017.

D. Any and all documents in the possession of Fundbox, its agents, subsidiaries, affiliates, referring to the Debtor.

**END OF DOCUMENT**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH DIVISION**

IN RE:

CHAPTER 11

**Black Sheep Food Group, LLC,**

**CASE NO. 17-04372-5-JNC**

Debtor.

**NOTICE OF MOTION FOR SANCTIONS FOR CONTEMPT OF COURT**

NOTICE IS HEREBY GIVEN OF Debtor's Motion for Sanctions for Contempt of Court against Fundbox, Inc., for willful violation of a court order.

Your claim may be reduced, modified, or eliminated. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not want the court to grant the relief sought in the objection, or if you want the court to consider your views on the objection, then within **fourteen (14)** days of the date of this Notice, you or your attorney must file with the court, pursuant to Local Rule 9014-1, a written response, an answer explaining your position, and a request for hearing at:

Ms. Stephanie Butler  
Clerk, U.S. Bankruptcy Court  
300 Fayetteville Street, Fourth Floor  
P.O. Box 791  
Raleigh, NC 27602

If you mail your request or response to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above. You must also send a copy to the undersigned attorney for the Debtor.

If a response and request for hearing is filed in writing on or before the date set above, a hearing will be conducted on the objection at a date, time and place to be later set and all parties will be notified accordingly. If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the objection and may enter an order granting that relief.

This the 18th day of July, 2018.

**JANVIER LAW FIRM, PLLC**

s/ Kathleen O'Malley  
Kathleen O'Malley, Bar No. 51654  
William P. Janvier, Bar No: 21136  
311 E. Edenton Street  
Raleigh, NC 27601  
Telephone: (919) 582-2323  
Facsimile: (866) 809-2379  
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**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that a copy of the foregoing **NOTICE AND MOTION FOR SANCTIONS FOR CONTEMPT OF COURT** has been served upon each of the parties listed below by placing copies of the same in the United States mail, postage prepaid or electronically as indicated, this the 18th day of July, 2018.

Marjorie K. Lynch (via CM/ECF)  
Bankruptcy Administrator, EDNC  
434 Fayetteville Street, Suite 640  
Raleigh, NC 27601

Black Sheep Food Group, LLC  
1060 Darrington Drive  
Cary, NC 27513

Fundbox, Inc. (Via U.S. Mail and email)  
ATTN: Managing Agent  
300 Montgomery Street  
San Francisco, CA 94104

JANVIER LAW FIRM

s/ Kathleen O'Malley  
Kathleen O'Malley  
N.C. State Bar No. 51654  
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N.C. State Bar No. 21136  
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